

The manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

September 14, 2004

Dear Xxxxx:

This letter is in response to your letter dated April 20, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We have a few questions on the sales tax for some of the items we use to manufacture our products. We use nails to make wood crates to mail our products. Also we use saws to cut the metal used for our products(preparation of the product). Would these two items be taxed?

We would appreciate it if you could send us some literature explaining what is exempt from sales taxes. Thank you for your help in this matter.

For general information purposes, under the Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq., the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See Ill. Adm. Code 130.330.

The term "Manufacturing" is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, which changes some existing material or materials into a material with a different use, form or name. These changes must result from the process in question and be substantial and significant.

The term "Machinery" means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process. See 86 Ill. Adm. Code

130.330(c)(2). The term "Equipment" includes any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembling process. See 86 Ill. Adm. Code 130.330(c)(3). The extension also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation. See 86 Ill. Adm. Code 130.330(c)(3).

Please note, that under Section 130.330, the exemption does not include items such as supplies, coolants, lubricants, adhesives, solvents, items of personal apparel, coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. Hand tools do not qualify for the exemption. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption.

The sale of containers, as that term is defined in 86 Ill. Adm. Code 130.2070(a) is not subject to Retailers' Occupation Tax when the purchasers of such containers transfer to customers the ownership of the containers together with what is contained in them. Therefore, in general, purchases of packing materials such as bags, shrink wrap, wood, and nails used to make crates are nontaxable as long as they are transferred along with the products contained in them to customers. Purchasers buying containers for this type of use are considered to be making tax-free purchases for resale purposes. Such purchasers must provide their suppliers with Certificates of Resale to document the exemption. Please note, however, that containers would not qualify for the exemption if, after delivery, the seller of the tangible personal property contained in them retained and reused them or discarded them.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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